

## Tenants in Foreclosed Dwellings Have New Rights

On May 20, 2009, a new federal law was passed to protect tenants in foreclosed rental properties. Tenants are often the last to know that their landlord's property is undergoing foreclosure. To protect tenants who find themselves in the difficult position of having to find a new home with little or no notice, a 90 day pre-eviction requirement is now the law. New owners, who take over a foreclosed rental dwelling after May 20<sup>th</sup>, have to follow rules established by the [Protecting Tenants at Foreclosure Act](#) (The Act) Pub. L. No. 111-22, § 702 (2009).

Under this law, the person who now owns your rental dwelling as a result of foreclosure must comply with the following rules:

- If you have a lease for a fixed term, such as one year, and the lease has not expired, you may have a right to remain in your rental unit. You cannot be evicted until the end of the lease term, unless the new owner will occupy your unit as a primary residence. In any event, the new owner is still required to provide you with 90 days notice.
- If your lease ends in less than 90 days, the new owner may not evict you without giving you a minimum 90-days notice.
- The new owner cannot use the foreclosure as a reason to terminate the tenancy or evict you if they want the property vacant so they can sell it.
- Housing Choice Voucher tenants have additional protections.

Tenants who want to continue the lease term after foreclosure must:

- Pay rent to the new owner. If you don't pay, you will be subject to eviction procedures for non-payment of rent.
- Continue to follow all existing lease terms.

Tenants who receive an improper notice to terminate their lease should do the following:

- Send a letter (see [sample letters](#)) to the new owner objecting to the termination before the date in the notice received along with a copy of The Act.
- Send your letter by certified mail, return receipt requested, to the address provided by the new owner on the notice you received.
- Keep a copy of the letter for your records along with all documents you receive from the new owner.
- If the new owner does not withdraw the improper notice, you may file a complaint for voluntary mediation with the [Consumer Affairs Branch](#).
- If the new owner files in court to remove a tenant from a rental unit through eviction or an unlawful detainer action, you should file an answer to the court that the termination notice is improper because the new owner did not comply with The Act.
- Go to court on the scheduled date. Take a copy of the letter you sent to the new owner, your lease agreement, and any other documents you have regarding your tenancy.
- If you have questions about the court process or your legal rights after you receive an eviction notice, contact Legal Services of Northern Virginia at 703-246-4500 for guidance.

If foreclosure of your rental dwelling happens after May 20<sup>th</sup>, you **cannot** be forced to move, with limited exceptions, without 90 days notice.

To learn more, renters should contact Fairfax County's Consumer Affairs Branch 703-222-8435, TTY 711, or get help in person at 12000 Government Center Parkway, Suite 433, Fairfax, between 8 a.m. and 4:30 p.m., or the South County Center, 8350 Richmond Highway, Alexandria, on Wednesdays from 8 a.m. and 4:30 p.m.

## ***Sample Letter to Send to New Owner***

### *Non Housing Choice Voucher Tenant*

(This sample letter is provided for information and guidance only. If you have questions, you are encouraged to seek legal assistance for details and options based on your individual circumstances).

Name and address of tenant

Name and address of owner

Date:

Dear Landlord,

I am writing this letter in response to the notice of termination dated \_\_\_\_\_ that I received on \_\_\_\_\_.

The Protecting Tenants at Foreclosure Act, (The Act) Pub. L. No. 111-22, §§ 701-704 (2009), which became law on May 20, 2009, applies to state eviction proceedings. This act requires that a new owner who took title to residential rental property through foreclosure must honor existing leases until the end of the lease term.

There are three exceptions to this rule: 1) if there is an existing term lease and the new owner wants to occupy the foreclosed property as a personal residence before the end of the lease term, 2) if there is an existing term lease with less than 90 days to the end of the lease term, or 3) if the existing lease on the foreclosed property is a month-to-month tenancy or a tenancy at will. In each of these cases, the owner must provide the tenant at least 90 days notice to terminate the tenancy. A copy of The Act is enclosed.

Because the notice sent on \_\_\_\_\_ does not comply with this law, I ask that you withdraw the notice and provide written verification of your action.

Sincerely,

Tenant name

## ***Sample Letter to Send to New Owner***

### *Housing Choice Voucher Tenant*

(This sample letter is provided for information and guidance only. If you have questions, you are encouraged to seek legal assistance for details and options based on your individual circumstances).

Name and address of tenant

Name and address of owner

Date:

Dear Landlord,

I am writing this letter in response to the notice of termination dated \_\_\_\_\_ that I received on \_\_\_\_\_.

The Protecting Tenants at Foreclosure Act, (The Act) Pub. L. No. 111-22, §§ 701-704 (2009), which became law on May 20, 2009, applies to state eviction proceedings. This law requires a person or entity who acquires ownership of residential rental property through foreclosure to take subject to (be legally bound by) the Housing Choice voucher lease and Housing Assistance Payments (HAP) contract. A new owner can only terminate the lease and HAP contract by giving the tenant at least 90 days notice of termination prior to the end of the lease. If the Housing Choice voucher lease and HAP contract have less than 90 days remaining in their term, or if the new owner who takes title at foreclosure wants to occupy the premises as their personal residence, the new owner may terminate the lease only after giving the tenant at least 90 days notice of such termination. A copy of The Act is enclosed.

Because the notice sent on \_\_\_\_\_ falls short of the 90-day notice required by law, I ask that you withdraw the notice and provide written verification of your action.

Sincerely,

Tenant name